

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**BLUE SPIKE, LLC,**

*Plaintiff,*

**V.**

**TEXAS INSTRUMENTS, INC., et al.,**

***Defendants.***

**Civil Action No. 6:12-CV-499-LED**

## JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY IN RESPONSE TO**  
**DEFENDANT ZEITERA’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of Zeitera, LLC. (“Zeitera” or “Defendant”) (Dkt. No. 215) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

## THE PARTIES

76. Plaintiff admits the allegations of Paragraph 76, upon information and belief.
77. Plaintiff admits the allegations of Paragraph 77.

## JURISDICTION AND VENUE

78. Plaintiff admits that Defendant purports to bring an action for declaratory judgment.
79. Plaintiff admits the allegations of Paragraph 79.
80. Plaintiff admits the allegations of Paragraph 80.
81. Plaintiff admits the allegations of Paragraph 81.

## FIRST COUNTERCLAIM: DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '175 PATENT

82. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.
83. Plaintiff admits the allegations of Paragraph 83.

84. Plaintiff denies the allegations of Paragraph 84.

85. Plaintiff denies the allegations of Paragraph 85, to the extent they are allegations and not a prayer for relief.

**SECOND COUNTERCLAIM: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '175 PATENT**

86. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

87. Plaintiff admits the allegations of Paragraph 87.

88. Plaintiff denies the allegations of Paragraph 88.

89. Plaintiff denies the allegations of Paragraph 89, to the extent they are allegations and not a prayer for relief.

**THIRD COUNTERCLAIM: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '494 PATENT**

90. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

91. Plaintiff admits the allegations of Paragraph 91.

92. Plaintiff denies the allegations of Paragraph 92.

93. Plaintiff denies the allegations of Paragraph 93, to the extent they are allegations and not a prayer for relief.

**FOURTH COUNTERCLAIM: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '494 PATENT**

94. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

95. Plaintiff admits the allegations of Paragraph 95.

96. Plaintiff denies the allegations of Paragraph 96.

97. Plaintiff denies the allegations of Paragraph 97, to the extent they are allegations and not a prayer for relief.

**FIFTH COUNTERCLAIM: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '700 PATENT**

98. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

99. Plaintiff admits the allegations of Paragraph 99.

100. Plaintiff denies the allegations of Paragraph 100.

101. Plaintiff denies the allegations of Paragraph 101, to the extent they are allegations and not a prayer for relief.

**SIXTH COUNTERCLAIM: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '700 PATENT**

102. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

103. Plaintiff admits the allegations of Paragraph 103.

104. Plaintiff denies the allegations of Paragraph 104.

105. Plaintiff denies the allegations of Paragraph 105, to the extent they are allegations and not a prayer for relief.

**SEVENTH COUNTERCLAIM: DECLARATORY JUDGMENT OF  
NON-INFRINGEMENT OF THE '472 PATENT**

106. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

107. Plaintiff admits the allegations of Paragraph 107.

108. Plaintiff denies the allegations of Paragraph 108.

109. Plaintiff denies the allegations of Paragraph 109, to the extent they are allegations and not a prayer for relief.

**EIGHTH COUNTERCLAIM: DECLARATORY JUDGMENT OF  
INVALIDITY OF THE '472 PATENT**

110. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 76 through 81 above.

111. Plaintiff admits the allegations of Paragraph 111.

112. Plaintiff denies the allegations of Paragraph 112.

113. Plaintiff denies the allegations of Paragraph 113, to the extent they are allegations and not a prayer for relief.

**REQUEST FOR RELIEF**

Plaintiff denies that Defendant is entitled to any of the relief it requests.

**PLAINTIFF'S PRAYER FOR RELIEF**

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Dated: December 12, 2012

Respectfully submitted,

/s/ Randall T. Garteiser  
Randall T. Garteiser  
Lead Attorney  
Texas Bar No. 24038912  
randall.garteiser@sfttrialattorneys.com

Christopher A. Honea  
Texas Bar No. 24059967  
chris.honea@sfttrialattorneys.com  
Christopher S. Johns  
Texas Bar No. 24044849  
chris.johns@sfttrialattorneys.com  
**GARTEISER HONEA, P.C.**  
44 North San Pedro Road  
San Rafael, California 94903  
Telephone: (415) 785-3762  
Facsimile: (415) 785-3805

Eric M. Albritton  
Texas State Bar No. 00790215  
ema@emafirm.com  
Stephen E. Edwards  
Texas State Bar No. 00784008  
see@emafirm.com  
Michael A. Benefield  
Texas State Bar No. 24073408  
mab@emafirm.com  
ALBRITTON LAW FIRM  
P.O. Box 2649  
Longview, Texas 75606  
Telephone: (903) 757-8449  
Facsimile: (903) 758-7397

***Counsel for Blue Spike, LLC***

**CERTIFICATE OF SERVICE**

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, today this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser

Randall T. Garteiser